

**U.S. ENVIRONMENTAL PROTECTION AGENCY
INITIAL POLLUTION REPORT**

I. HEADING

Date: May 16, 1994
From: Kevin Matheis, On-Scene-Coordinator, *Kevin Matheis*
USEPA, REGION II
To: J. Fox, EPA
W. Muszynski, EPA
K. Callahan, EPA
G. Pavlou, EPA
R. Salkie, EPA
G. Zachos, EPA
J. Rotola, EPA
ERD, Washington, (E-Mail)
J. Marshall, EPA
M. Basile, EPA Niagara Falls
E. Schaaf, EPA
E. Kissel, EPA
S. Becker, EPA
M. Jon, EPA-HWFB
M. O'Toole, NYSDEC
F. Shattuck, NYSDEC IX
P. Simon, EPA
D. Fischer, EPA
I. Purdy, EPA-HWFB
R. Byrns, EPA-OIG
A. Rockmore, NYSDEC
TAT

Subject: Frontier Chemical Processes, Inc. (Tank Action),
Niagara Falls, Niagara County, NY - Cyanides,
Corrosives, Halogenated & Non-Halogenated Solvents

POLREP NO: One (1)

II. BACKGROUND

SITE/SPILL NO.: CD
D.O. NO.: 2001-02-034
RESPONSE AUTHORITY: CERCLA/SARA
NPL STATUS: Non-NPL
START DATE: May 16, 1994
APPROVAL STATUS: Authorization of Funding from
Assistant Administ. Elliott P. Laws

**STATUS OF \$2 MILLION/
12 MONTH EXEMPTION**
ACTION MEMORANDUM: Signed March 30, 1994

III. RESPONSE INFORMATION

A. Situation

1. Frontier Chemical, founded in 1958, engaged in three methodologies of hazardous waste processing/management, i.e. wastewater treatment, fuels blending and bulking for off-site disposal. The site was a regulated treatment, storage,

and disposal facility (TSDF) under NYSDEC Section 373-3 Interim Status Standards with a final permit pending.

2. Over the last ten years, the NYSDEC had issued a total of 20 consent orders against Frontier Chemical Waste Process Inc. Sixteen of these orders were predicated upon violations at the Royal Avenue facility. These sixteen orders had assessed cumulative penalties of \$542,000, of which \$60,000 was suspended. These sixteen orders had also imposed numerous operational requirements and limitations on the facility, including the funding of two monitors to provide oversight of the facility's operations.
3. In addition to the violations of New York State requirements involving hazardous waste management, a federal investigation of the facility led to a February 25, 1992 agreement by Frontier to plead guilty to a felony for falsifying manifest records. The plea agreement required Frontier to pay a penalty of \$100,000.
4. The extensive history of non compliance with NYSDEC regulations resulted in a worsening of Frontiers financial situation and this resulted in the facility deteriorating to a condition that threatens the public health or welfare.
5. On December 4, 1992, the NYSDEC issued a Summary Abatement Order to Frontier Chemical for the creation of an escrow account to ensure that utility services to the facility would not be interrupted for lack of payment. Another escrow account was required to ensure that the facility had sufficient staff on the premises at all times to perform required maintenance activities that would minimize the likelihood of a release to the environment of hazardous waste and/or constituents and/or to implement the contingency plan in the event of an emergency. Also, Frontier was to develop and implement a schedule for the removal of all wastes stored at the facility.
6. Frontier Chemical failed to comply with items specified in the Summary Abatement Order and as a result, on December 22, 1992, the EPA initiated removal activities at the request of the NYSDEC. On December 22, the EPA On-Scene-Coordinator (OSC), Kevin Matheis, met with NYSDEC Regional personnel at the Site. He was briefed of the NYSDEC's intent to serve Eaglevision Environmental (the Frontier management company) a notice of the NYSDEC Right to Invoke Action (RIA). The RIA is based upon Eaglevision's non-compliance of the terms of NYSDEC's Summary Abatement Order (December 4, 1992). The RIA stated that the NYSDEC and EPA were invoking their right to enter into the facility and initiate appropriate emergency removal actions. This RIA was signed by John Spagnoli, Regional Director of NYSDEC Region IX.

7. Three operable units are being implemented at the Site. Operable unit one (OU1) involved the use of the EPA contractor to provide maintenance to the drums and tanks at the facility. Operable unit two (OU2) dealt with the enforcement actions leading to the removal of over 4,000 drums and 6,700 pounds of laboratory chemicals from the Site. Operable unit three (OU3) deals with the enforcement actions that are now continuing for the removal of all wastes from the 45 tanks on-site.
8. Prior to completion of drum and laboratory chemical removal work performed by the PRPs in OU2, an EPA inventory indicated that over 4,100 drums and over 6,000 pounds of laboratory chemicals involving a wide spectrum of hazard classes were on-site. Currently the Site contains 45 hazardous waste storage/treatment tanks containing over 400,000 gallons of hazardous waste. Hazardous wastes stored in the tanks on-site have characteristics of ignitability, corrosivity, reactivity and toxicity. These tanks are being addressed as part of OU3.
9. The chemicals and wastes found at the site present a significant threat to the adjacent industrial facilities and community. Many of the tanks are in a deteriorating condition from being exposed to the elements. Potential pathways for exposure are: windblown fumes and dusts, migration of plumes during tanks spills or fires in site buildings or flammable liquid tanks, explosions, migration of spilled liquids into the sewer system, and direct contact during unauthorized site entries.

B. Actions Taken

1. Drum maintenance has been completed and ERCS is now focusing on tank maintenance and sampling. Maintenance activities associated with the tanks on-site include: maintaining steam and process lines, pumping storm water runoff from containment areas into storage tanks, tank inspections and volumetric measurements, and repairing tanks and appurtenances. Due to the lack of an aggressive maintenance program when Frontier was in operation, most of the facility continues to be in a general state of disrepair. Illumination has been provided throughout the facility. Roof and wall sections have been also been stabilized.
2. EPA created a comprehensive tank PRP identification system that involved the use of computerized work order information, written production log books, and plant-generated production tracking forms. Including generators, owners and operators, 500 PRPs have been identified. The

generator PRPs are companies that have waste currently contained in the tanks on-site.

3. On April 13, 1994 EPA mailed Notice Letters of Potential Liability to all PRPs associated with the current waste contained within the tanks. The Notice Letters were mailed to 50 large quantity generators $>.5\%$ of the tank volume, and 450 de minimis generators $<.5\%$ of the tank volume. The Notice Letters mailed to the large quantity generators included a notice of PRP meetings in NYC and Niagara Falls to discuss the site work, a draft Consent Order to address the tank action, a detailed volumetric waste-in list, a question and answer sheet about how EPA created the list, and a request for payment of EPA's past response costs. The de minimis Notice Letter mailing included a draft de minimis Consent Order, an allocation appendix based upon EPA's past response costs and projected costs, a fact sheet about the Site, an explanation of the benefits of a de minimis Consent Order, a question and answer sheet, a comprehensive waste-in list, and a notice of PRP meetings scheduled for NYC and Niagara Falls.
4. The OSC has processed approximately 140 information requests with assistance from TAT. An average of 10 phone calls per day are being received on the Frontier Chemical information line. The information line has been primarily staffed by personnel from PSB and ORC. Most of the inquiries regard information requests and general site information. Upon receipt of information requests, most generators call the OSC to discuss the waste-in information. The OSC has been handling approximately 10 calls per day of this nature. Generally the tone of the calls indicates that many parties are considering consensual participation.
5. Mail that has been returned has been reevaluated and resent by PSB after investigations into the whereabouts of the missing companies.
6. The PRP technical coordinator has requested that the OSC provide blueprints of the tanks at the site and background tank information. The background information includes tank capacities, process information, waste volumes measurements of liquids and solids, and process line information. This information was mailed to the PRPs on May 19. The technical coordinator has set June 1 as the day for the bidders site walk. A morning and afternoon session is anticipated.
7. ERCS will prepare a sampling plan for OSC review by May 23. The safety plan is being amended to include tank sampling and confined space procedures.

8. The PRPs have begun negotiations with EPA regarding the AOC. ORC has incorporated new language in the Consent Order that resulted from negotiations. The revised Consent Order was sent to the PRP steering committee. The PRPs are expected to review the revised Order and discuss the terms further early next week.

C. Future Actions

1. Commitments from the de minimis and non-de minimis PRPs are due to EPA by June 7. Upon receipt of commitments, the Consent Order will be sent to the RA's office for final approval. If an AOC is issued by EPA, it will require the PRPs to submit a work plan to EPA. Upon approval of the work plan, the tank removal action will proceed with EPA oversight.
2. The ERCS contractor will begin tank sampling during the week of May 30. The sampling is expected to be completed by June 10. The sampling information and analysis will be used by EPA or the PRPs depending on which entity performs the work.

D. Key Issues

If an AOC is issued, the PRPs will be required to pay EPA past costs including the remaining 50% of EPA past costs not covered by the September 30, 1993 AOC.

The non-complying PRPs will be evaluated on a case-by-case basis to determine if EPA will issue a 106 Unilateral Order to the PRPs to cooperate and participate with the consenting PRPs.

IV. COST INFORMATION:

	Amount Budgeted	Cost To Date (As of 05/20/94)	Amount Remaining
Cleanup Contractor			
OHM Remediation	\$ 200,000	\$ 20,000(EST)	\$ 180,000
<u>EPA/TAT (ERCS ONLY)</u>	<u>\$ 300,000</u>	<u>\$ 5,000(EST)</u>	<u>\$ 295,000</u>
SITE TOTAL	\$ 500,000	\$ 25,000	\$ 475,000